

Submitter : **Ms. KRISTINE GJERDE** Date & Time: **09/13/2004 07:09:33**

Organization : **Ms. KRISTINE GJERDE**

Category : **Individual**

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

I have been involved with the process of Peer Review for physical therapists for over 20 years. We perform reviews for our colleagues as well as for insurance companies. Our process for payers is usually only performed on cases where there are identified problems. Many of these cases involve use of unskilled personnel in the MD office performing services identified as physical therapy. There is often overutilization and inappropriate care, in particular, the skill of the care is minimal and maintenance in nature. When a physical therapist has performed the evaluation, the skill of the care provided is elevated significantly.

It is essential that physical therapy be provided only by physical therapists with the assistance of a physical therapist assistant. Please remove the incident too provision. Physicians are knowledgeable, and I would never consider performing in the MD role. Neither should the MD assume that they are able to perform as a physical therapist. Allowing this incident too situation will increase the utilization of inappropriate care as a lesser skilled quality. This, in turn, will increase the volume and cost plus decrease the effectiveness of treatment.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Hello,

I do not believe that anyone should be able to provide physical therapy services except for a licensed physical therapist. I have been a physical therapist for 16 years and currently own my own practice. There are physician owned practices in the area and the quality of care has been poor. The physicians are not able to directly supervise the people providing the care because they are busy with their own practices. In the rare situation where the person providing the care is supervised by a physician they do not have the necessary skills and background knowledge that a physical therapist has with their minimum of 4 years of education and with newer standards in many cases 7 years of full time education. I hope you require all those providing and billing for physical therapy services to only those licensed as a physical therapist. Thank you.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2004

Department of Human Performance
Ball State University
Muncie, Indiana 47306

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of ?incident to? services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Jennifer Handler

Athletic Training Student at Ball State University

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**GENERAL**

GENERAL

One of the biggest hurdles to gaining autonomy for physical therapy (and professional credibility within the community at large) is the fact that unscrupulous practitioners have provided "physical therapy" for services that were sub-standard. One small example: I saw a young girl (16 yrs) with scoliosis of the spine who had seen a chiropractor for 'physical therapy'. He manipulated her back to such an extent her entire spine was unstable, contributing to a worsening curvature, and the need for extensive surgery when no surgery would have been necessary if proper services had been rendered in the first place. This child was the object of malpractice, in the name of physical therapy. I don't like the fact my professional credibility was undermined in a case like this. I am particularly upset that this girl ended up far worse following care than she was beforehand. Most lay people do not know how to distinguish between a 'real' PT and one who is untrained. Legislation is required to ensure public safety and well-being.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support the proposed rule that would require that physical therapy services provided in a physician's office incident to a physician's professional services must be furnished by personnel who meet certain standards. Specifically, these services could only be furnished by an individual who is a graduate of an accredited professional physical therapist education program.

I have studied hard and long to obtain my degree and expertise, which has continued to improve through experience, con-ed courses, and personal study in my field. In working in the physical therapy setting for ten years now I have had the opportunity to work with a number of aides under my supervision. And, it is my experience that PT aides working under the supervision of PT's require direct supervision and constant training to provide professional care.

Also, I have worked with and developed friendships with a number of physicians, all of whom support our field as unique and necessary for the long-term benefit of patient progress in rehabilitation. These same physicians agree that their educations are not adequate to provide physical therapy services.

Submitter : Date & Time:
Organization :
Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2004

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005; 'Therapy - Incident To'

Dear Dr. McClellan:

The purpose of this letter is to provide comment on the August 5 proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' In the proposed rule, The Centers for Medicare and Medicaid Services (CMS) proposes that qualifications of individuals providing physical therapy services 'incident to' a physician should meet personnel qualifications for physical therapy in 42 CFR, section 484.4, with the exception of licensure. This means that individuals providing physical therapy must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists.

I have been a physical therapist for 24 years and am currently serving as a faculty member in the Department of Physical Therapy and Human Movement Sciences at Northwestern University in Chicago, IL. I would like to express strong support for CMS's proposed requirement that physical therapists working in physicians' offices be graduates of accredited professional physical therapist programs. This is the same standard that is used for state licensure and I believe that this is the most appropriate standard to assure that qualified personnel are providing physical therapy services and the public is protected. Physical therapists must be licensed in the states where they practice. As licensed health care providers, physical therapists are fully accountable for their professional actions. Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. I believe that unqualified personnel should not be allowed to provide physical therapy services.

In addition, Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill 'incident to' for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, individuals who are graduates of accredited professional physical therapist education programs must perform the services.

Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005. Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries.

Therefore, once again, I urge you to support the proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' Thank you very much for your consideration of my comments.

Submitter : Mr. Michael Rennick, PT, MPH

Date & Time: 09/13/2004 08:09:53

Organization : Methodist Hospital

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dr. McClellan and Individuals at CMS,

Thank you for the opportunity to comment. I strongly support the change requiring providers billing physical therapy 'incident to' a physician to be licensed physical therapists or licensed physical therapist assistants. I am responsible for physical therapy and other rehabilitation services at Methodist Hospital in Omaha, Nebraska.

The efficacy of physical therapy is dependent to a large degree on the therapist's ability to individually evaluate and assess patient needs, develop a program which is effective and feasible, and educate the patient so that they can regain quality of life or independence. From my experience, what separates good PT's from excellent PT's, in addition to superior skills, is their ability to educate and motivate a patient to take a larger role in responsibility for their own health.

My concern with non-licensed providers performing services in physicians offices is that patients 'receive treatments' or modalities, which may or may not be the best way to achieve the patients goals and would have little impact on the patients independence level and quality of life. The non licensed technician does not evaluate the patient, the technician performs an ordered treatment (i.e. 'ultrasound') without the critical thinking as to whether the treatment is appropriate, indicated or likely to be effective.

My concerns are: 1) PT provided by non licensed professionals may not be effective, yet is judged the same as PT provided by a competent, licensed therapist 2) In a time of limited resources, we want to make the most of our health care dollars. I would imagine that a licensed PT who evaluated individual needs and has the ability to ADJUST the program based on results would be more effective at achieving outcomes for persons served than would be the tech-extender in the MD office. 3) Under current policy with the reinstatement of the therapy cap in 2006, a patient could max. out their physical therapy benefit WITHOUT EVER SEEING A PHYSICAL THERAPIST. 4) Lastly, I am concerned about promotion of PT delivered by techs in the physician's office as a 'whole new revenue stream' for profit, websites have already emerged and that would only further tax the Medicare system's ability to provide appropriate care to the people that need it.

Thank you for including the proposed change to qualify 'incident to' physical therapy with the provision that it is provided by a licensed physical therapist.

Please feel free to contact me if you require further information.

Michael Rennick, PT, MPH
Methodist Hospital
8303 Dodge Street
Omaha, NE 68114
402-354-4674
Mike.rennick@nmhs.org

Submitter : **Mr. Daniel Whitted** Date & Time: **09/13/2004 08:09:45**

Organization : **Mercy Medical Center**

Category : **Health Care Professional or Association**

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

Dear Sir or Madam, I am writing to express my concern over the roposed changes that would limit the incident to services in phsicains offices and clinics. This proposal would eliminate the ability of qualified health professionals to provide these important services. This would reduce the quality of health care for medicare patients, increase costs and place an undue burden on the medical system. Consider; 1, incident to has always been utilized by physicians to allow others, under their supervision, to provide adjunct services to their care. The physicians has always had the right to delegate which professional is competent and qualified to provisde these services. 2, physicians are ultimate responsible for these professionals that provide "incident to" services and medicare and private payors have always relied on the physicians judgement in choosing the professionals that provide these services. 3, with the shortage of qualified allied health care professionals patients, especialy in rural areas, could experience delays in receiving care if they could not use "incident to" services by qualified professionals such as Certified Athletic Trainers. 4, Curtailing who physicians can delegate incident to procedures will result in increasing the workload of already overworked physicians which willtake away from the physicians ability to provide the best possible care. 5, CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. This action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivityas a provider of therapy services. 6, Independant reseaqrch has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Submitter :

Date & Time:

09/13/2004 08:09:20

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To whom it may concern:

I am a licensed physical therapist who has been practicing physical therapy for 8 years. I am writing in strong support of the proposed revision to payment policies under the Physician Fee Schedule stating that physical therapy services incident to physician services and provided in a physician's office may only be provided by an accredited physical therapy practitioner.

While working toward my Master of Science degree in physical therapy, which I received from Duke University in 1996, I worked as an aid in a physical therapy practice. I thought I knew something in those days, but when I began my physical therapy program, I realized that there was so, so much that I didn't know and that provision of physical therapy services is truly the province of trained, educated, and certified professionals.

Thank you for your attention.

Sincerely,
Carolyn

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

As the director of an accredited master's degree program in athletic training for the past five years, I have been preparing students to assume professional roles that will maximize the functional capabilities of physically active people of all ages. Having previously been employed by a large physician group for three years, and having been the co-owner of a physical therapy practice for over five years, I have gained insights that are highly relevant to the issue of reimbursement for "incident to" therapy services. Physical therapy and athletic training involve very similar clinical roles, but distinctly different paradigms guide the practices of these two professions. The sports medicine model of patient care, which defines the unique professional skills of athletic trainers, is more focused on optimization of functional capabilities than the conventional model of clinical rehabilitation, which is more oriented to the process by which therapeutic procedures are administered. An excellent example of the relevance of this distinction to the Medicare population is the differing approach to management of knee osteoarthritis. Despite the existence of strong research evidence linking quadriceps weakness to knee degeneration, conventional management of knee osteoarthritis remains focused on pain relief and activity restriction. The sports medicine approach to any functional limitation (including knee osteoarthritis) is assessment of muscle performance deficiencies and development of an appropriate strengthening program to restore optimal capabilities. In my experience, "incident to" services provided by an athletic trainer under a physician's direction have been far more effective in restoring functional capabilities than conventional therapeutic procedures provided in physical therapy clinics (and are considerably more cost-efficient). Athletic trainers receive a rigorous and standardized education to qualify for a national certification examination, and they have long been recognized by the American Medical Association as allied health care providers. The adequacy of the professional preparation of athletic trainers to provide valuable clinical services to Medicare patients is undeniable.

Submitter : Stacy Rogers Date & Time: 09/13/2004 08:09:46

Organization : Stacy Rogers

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I firmly support this bill and believe that if passed, it would better patient care with respect to physical therapy.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I strongly support the proposal that psychologists (PhD level) have the authority to supervise the technicians in the administration of psychological tests. With over seven years of training in test selection, administration, scoring and interpretation, psychologists possess the specialized training necessary to competently provide the necessary oversight. Thank you for your consideration of this matter.

Submitter : **Mr. Troy Banse** Date & Time: **09/13/2004 08:09:53**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13th , 2004

Gustavus Adolphus College
800 W. College Ave
St. Peter, MN 56082

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

As a Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of ?incident to? services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my 4-year bachelor?s degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Troy D. Banse, MA, ATC/R
Asst. Athletic Trainer
Gustavus Adolphus College

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Medicare Program Revisions to Payment Policies Under the Physicians Fee Schedule for Calendar Year 2005

Therapy-Incident To

I support the revision establishing requirements for individuals who furnish physical therapy services in out patient settings in physicians offices to be graduates of accredited professional physical therapy programs. Physical Therapy programs are accredited by the Commission on Accreditation of Physical Therapy. Physical Therapists have a minimum post baccalaureate degree from an accredited program. They have extensive study in anatomy, physiology, other medical sciences, with experience in evaluating patient's needs in rehabilitation and developing a program with outcomes for the patient.

Individuals who practice physical therapy in a physicians office should be qualified. Medicare patients deserve the level of care that only qualified people can administer.

In my own past experience on the NC Board of Physical Therapy Examiners, I was aware of many physicians offices who hired unqualified individuals to perform physical services and charged under Medicare for those services as physical therapy. The health and safety of Medicare population is put at risk.

A particular dangerous incident I recall involved the application of diathermy to a patient's hip who had a total hip replacement in the treated hip. The procedure is clearly contraindicated.

Again, I support the requirement for personnel providing physical therapy services in out patient physician offices be graduates of an accredited physical therapy program.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To:
Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Subject:
Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005,

I am a physical therapist working in a private, therapist owned outpatient practise and would like to comment on the proposed CMS rule where CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physician's offices. CMS proposes that qualifications of individuals providing physical therapy services "incident to" a physician should meet personnel qualifications for physical therapy in 42 CFR 484.4, with the exception of licensure.

I have been a physical therapist since 1994 and strongly support the proposal from CMS for specific personnel qualifications and standards in physician owned practises that deliver and bill for PHYSICAL THERAPY. It is important to remember that physical therapy is a profession on it's own and that physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccaulaureate degree from an accredited education program.

I have worked in several different physician owned practices and there were several occasions where the safety of patients (specifically post-surgical Medicare patients) were comprimised by unqualified personnel delivering supposedly physical therapy. Lack of knowledge of specific post-surgical precautions, applied functional anatomy and the physiological healing process are just a few of the shortcomings of the "technical assistant" in providing PHYSICAL THERAPY.

These sentiments are echoed in Section 1862(a)(20) of the Social Security Act that clearly requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

Thank you for considering my comments,

DB

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I support CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs.

Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should NOT be providing physical therapy services.

Other items to consider:

? Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005.

? Physical therapists must be licensed in the states where they practice. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions.

? Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries.

? The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient. They could accidentally injure a patient with improper modality choices, or unfamiliarity with contraindications to treatment choices, perform a wrong exercise which would make the patient worse etc.

? A financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. This will negatively impact patient's outcomes, as they may never reach their functional goals.

? Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

Please consider these points when making your decision. Thank you for your time and efforts to assist us. Sincerely, Mrs. Gina Parsonis

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Medicare Program Revisions to Payment Policies Under the Physicians Fee Schedule for Calendar Year 2005

Therapy-Incident To

I support the revision establishing requirements for individuals who furnish physical therapy services in out patient settings in physicians offices to be graduates of accredited professional physical therapy programs. Physical Therapy programs are accredited by the Commission on Accreditation of Physical Therapy. Physical Therapists have a minimum post baccalaureate degree from an accredited program. They have extensive study in anatomy, physiology, other medical sciences, with experience in evaluating patient's needs in rehabilitation and developing a program with outcomes for the patient.

Individuals who practice physical therapy in a physicians office should be qualified. Medicare patients deserve the level of care that only qualified people can administer.

In my own past experience on the NC Board of Physical Therapy Examiners, I was aware of many physicians offices who hired unqualified individuals to perform physical services and charged under Medicare for those services as physical therapy. The health and safety of Medicare population is put at risk.

A particular dangerous incident I recall involved the application of diathermy to a patient's hip who had a total hip replacement in the treated hip. The procedure is clearly contraindicated.

Again, I support the requirement for personnel providing physical therapy services in out patient physician offices be graduates of an accredited physical therapy program.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**GENERAL**

GENERAL

I encourage you to support the provision of physical therapy services by licensed physical therapists and physical therapist assistants. Beneficiaries are entitled to the best available care which for physical therapy is given by licensed personnel in the physical therapy field. It is after all our specialty, what we are trained for and interested in. The cost to Medicare is actually less by using the PT & PTA due to our fee schedules and code edits. These same schedules and edits do not apply to "incident to" services provided in physician office. Incident to services are simply a way for physicians to garner additional fees while using substandard providers. Don't be fooled into thinking these providers will be supervised by an MD! This is not a good use of medical doctor's time from any point of view.

Submitter : Dr. Rick Wilkerson

Date & Time: 09/13/2004 08:09:26

Organization : NWIA Bone, Joint & Sports Surgeons

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

I am a physician writing to express my concern over the recent proposal that would limit providers of ?Therapy-incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, consider the following:

? Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and patient.

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health professionals working ?incident to? the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also cost time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which add to the medical expenditures of Medicare.

? CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. This action could be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of physical therapy services.

? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is health care access deterrent.

Submitter : Mr. Charles Ogren

Date & Time: 09/13/2004 08:09:52

Organization : Rio Grande Health Center

Category : Physical Therapist

Issue Areas/Comments**Issues 20-29**

THERAPY - INCIDENT TO

Having Physical Therapy Provided in Physicians Offices by non-qualified workers is a dangerous and expensive practice. All Providers should be required to meet at least some minimal standards to ensure basic levels of care. The cost of not providing basic quality rehabilitation services to the public will be extremely high. The present system allows rehabilitation to be performed in physicians offices by people with no training. Why are we spending tax payers money and using up Medicare dollars on useless treatment? Ask these providers to show you evidenced based research on the effectiveness of their treatment and outcome studies of their interventions. There are numerous studies that show that "therapy" provided by unlicensed workers is far more expensive and far less effective.

Submitter : **Dr. Philip Deffer** Date & Time: **09/13/2004 08:09:34**

Organization : **NWIA Bone, Joint & Sports Surgeons**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

I am a physician writing to express my concern over the recent proposal that would limit providers of ?Therapy-incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, consider the following:

? Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and patient.

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health professionals working ?incident to? the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also cost time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which add to the medical expenditures of Medicare.

? CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. This action could be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of physical therapy services.

? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is health care access deterrent.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am in an area where 12-14 orthopedic surgeons have recently(In November 2003)started their own physcial therapy. They presently have trainers treating and billing. Many of the patients think they are treated by a physical therapist. We have had some of the patients and they were surprised when we informed them of this fact.

Would I be allowed to perform surgery if I wasn't a surgeon? Should I be paid to be an attorney or judge or psychiatrist, etc. if I am not licensed to do so?

I do not think this issue should require much thought. The majority of physicians who run physical therapy do not monitor their patients progress any better than those who don't. They use that as an excuse. We have seen this first hand and would be glad to testify to it.

The physicians already have control of the patients care and where they are referred. I would think you would at least be leveling the playing field a little if you, at least required them to bill for physical therapy with licensed physical therapists.

If I had my way- physicans would not be allowed to own physical therapy. It is double dipping. They make their money two ways. It is a conflict of interest.

Thank you for your time.

Sincerely,

Fran McDonald,PT

Submitter : **Dr. J. William Follows** Date & Time: **09/13/2004 08:09:34**

Organization : **NWIA Bone, Joint & Sports Surgeons**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

I am a physician writing to express my concern over the recent proposal that would limit providers of ?Therapy-incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, consider the following:

? Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and patient.

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health professionals working ?incident to? the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also cost time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which add to the medical expenditures of Medicare.

? CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. This action could be construed as an unprecedented attempt by CMS to seek exclusivity as a provider of physical therapy services.

? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is health care access deterrent.

Submitter : **Mr. Trevor Bardarson** Date & Time: **09/13/2004 08:09:37**

Organization : **ISr Physical Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

THERAPY - INCIDENT TO

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Therapy - incident to

I am writing in support of the current wording in the proposed 2005 Medicare physician fee schedule rule on August 5, 2004. The proposed rule would require that physical therapy services provided in a physician's office incident to a physician's professional services must be furnished by personnel who meet certain standards.

I am a Physical Therapist with over 10 years experience and have also been board certified in orthopedic physical therapy.

As a group, physical therapists are uniquely qualified to provide our services. Physical therapists are currently graduating with a masters or doctorate level degree. We are licensed in each state we practice and carry malpractice insurance. We have a detailed understanding of anatomy and physiology as well as stages of healing/recovery. We keenly understand our role in the medical model and work actively to support it. We keep our patients in the medical model, contrary to other professions that have the patient step outside the medical model (i.e chiropractors, massage therapist, etc).

We also understand our role in recovery of the patient and work actively with the treating physician to provide quality care in a team setting. To allow other individuals to provide services and then have them billed as physical therapy would be a disservice to the patient.

I have seen situations where people with lesser qualification are providing services in a physicians office. The results, which were not closely scrutinized by the physician, would be laughable if brought under legal scrutiny.

Also, due to the level of care not being satisfactory, the patient would likely use up his allowance (\$\$) for physical therapy services and not achieve an adequate recovery. This would place undue hardship on the patient from a physical and financial standpoint.

Thank you for your time and attention to this matter,

Sincerely,

Trevor Bardarson PT, OCS
Physical Therapist
500 Corporate Dr, Suite F
Houma, LA, 70360
(985) 872-5911

Submitter : **Mr. Peter Lecius** Date & Time: **09/13/2004 08:09:29**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

The following revisions to ATC would greatly undermine our profession. It is wrong to think that ATC's can not treat medicare patients. Everyday we treat 1000's of athletes. We are on the front line taking care of high school, college, and professional athletes. This includes rehabilitation. It is an insult to my profession to tell me that I can not treat the medicare patient. If I can rehab an athlete to play in a football game, I can rehab a medicare patient to functional status. Do not insult my profession to think that a P.T. assistant is more qualified to treat the elderly than ATC'S. If you go through will this proposal, private insurance companies will follow. This act alone will cause the firing of 1000's of dedicated, caring people. These people are highly educated and do a wonderful job. These are the same people who volunteer their services to count less young age programs. They do it because they love their profession. Ask the P.T.'s if they volunteer their free time. I have spent years improving my skills. I have taught at the university level. Do not insult my profession on who can rehab a certain group of people. I have taught the people who you believe is the sole providers to medicare patients. What you need to do is leave the office and visit the universities and watch the ATC's at work. Go to the high schools and ask the parents how grateful they are to have an ATC present. Most high schools ATC's come from the clinics. They do high school coverage as part of their jobs. If the ATC loses his clinic job, the school loses their health care provider. Do not think that will not happen. It happens all the time. If you pass this rule, the clinic will have no choice but to let the ATC go. The doctor will Have no choice. He will have to let the ATC go. Remember these things will happen. We our qualified to take care of orthopedic problems. The ATC knows their limitations. We would not profess to be able to take care of stroke patients. We know that. We can take care of most orthopedic problems

Thankyou for reading my letter. Remember the things will happen with this ruling. Let the Doctors decide who can treat their patients.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attachment.

CMS-1429-P-1325-Attach-1.doc

Attachment to #1325

September 13, 2004

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

RE: Therapy-Incident To

Dear Dr. McClellan,

I wanted to express my support of the August 5th proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005." I have been practicing as physical therapist for 19 years and I currently hold an academic appointment at Louisiana State University Health Sciences Center. The primary function of my position is to educate individuals to become physical therapists. Working within a health sciences center has provided a unique perspective as to the training of other health care providers. This perspective has demonstrated that physical therapists and physical therapist assistants, under the supervision of physical therapists, are the only practitioners who have the education and training to furnish physical therapy services.

Just to provide you with some background, physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005. Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed a comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries.

Physical therapy is a unique profession with its own culture and body of knowledge that takes years of formal training to acquire. The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient since these unqualified individuals tend to perform the most basic techniques, which have the least effective outcomes. This poor outcome for the patient is extremely unfortunate. I have treated many, many patients who received "physical therapy" in their doctors office with very little improvement who progressed tremendously once I implemented the appropriate physical therapy intervention. Thankfully, the patients I treated were able to receive further physical therapy intervention, however, a financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. It is bad enough that patients are receiving inadequate interventions from unqualified individuals, but to never have the option to receive the appropriate care under a licensed physical therapist would be extremely unfortunate.

Another point I wanted to make is physical therapists must be licensed in the states where they practice. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions. Even though current law prevents the agency from requiring licensure, it would be the most appropriate standard to achieve its objective. This would be a mechanism to insure that patients were receiving the optimal intervention from a health care provider trained to provide physical therapy services.

Thank you for your consideration of my comments. Please feel free to contact me with any questions.

Sincerely,

Robert H. Rowe, PT, DMT, MHS, FAAOMPT

Submitter : **Dr. W. G. Schenk** Date & Time: **09/13/2004 09:09:00**

Organization : **University of Virginia**

Category : **Physician**

Issue Areas/Comments

Issues 20-29

MANAGING PATIENTS ON DIALYSIS

Re: CMS-1429-P
II D (6)
Venous Mapping for Hemodialysis

Dear Sir;

I am a vascular surgeon specializing in vascular access, and also a credentialed instructor for Surgical Ultrasound. I have several concerns regarding the proposed rule.

As I understand from reading the proposed rule and associated data in the Federal Register, the proposal is primarily a quality assurance initiative, permitting the tracking of how often mapping ultrasound is done in association with fistula construction for dialysis, I assume ultimately related to the CMS-sponsored initiative to encourage autologous fistula construction.

While I strongly agree with the initiative, and also with the premise that pre-operative ultrasound imaging/mapping is critical to obtaining optimum and cost-effective results, I have reservations regarding whether the proposal, as stated, would achieve the desired goal.

The proposal stipulates that only the operating surgeon (of the subsequent fistula construction) may do (that is, bill for) the U/S (ultrasound). While I strongly agree that the mapping U/S must be done by someone totally familiar with vascular access surgery to be maximally beneficial, I disagree that it must be done by the operating surgeon. Why not by a partner of the operating surgeon, or other team member with equivalent knowledge of the details of access surgery? It has certainly been my experience, over hundreds of access procedures, that an U/S done by a radiologist is of very limited value, but it has also been my experience that an U/S done by a surgeon without expertise in U/S is also suboptimal.

I believe this rule, as written, would encourage surgeons with limited U/S expertise to conduct a cursory U/S examination immediately pre-op, probably in the operating room, where its use as a pre-op planning tool would be marginal at best. This would potentially increase overall cost to CMS without providing significant benefit to beneficiaries.

According to the proposal, the U/S would be billable only if associated with a CPT code for an autologous fistula. While I understand the rationale for encouraging fistulas, the purpose of the U/S is to identify how best to construct such an access, and not infrequently identifies no autologous option with significant likelihood of success. To encourage construction of a fistula in this circumstance puts the patient through an unnecessary operation, and again increases overall cost to CMS without a benefit to beneficiaries. My experience has been that U/S is very reliable in determining the best, most successful, and cost-effective access, but that it is not always an autologous fistula. Sometimes the U/S may even suggest that another alternative, such as peritoneal dialysis, is the best option for a given patient. I believe tying the U/S to only the most desirable CPT codes would ultimately be counterproductive. Furthermore, any reasonable surgeon, when presented with the appropriate data from the U/S, will offer the patient the best choice ? if he were not committed to finding the best choice - an autologous fistula whenever possible - the U/S would not have been done in the first place.

I believe the goals of CMS would be better served by adding a CPT code for "U/S mapping for hemodialysis planning". Period. Current rules (for 93930, 93970) effectively preclude U/S when done for screening/mapping only, in the absence of a vascular diagnosis, counter to the goals of this initiative. Adding a code specifically for this indication, without tying it to specific operator or subsequent procedure codes, would accomplish the quality assurance/tracking goal in a more beneficial and cost-effective manner.

I would further propose establishment of minimum standards for an acceptable U/S mapping, so that CMS is getting their money's worth for their beneficiaries.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

Please forgive me if this comment has already reached you. I hit a back button too early.

As a Physical Therapist of 25 years myself, I am regularly disgusted by an apparent attempt by APTA to monopolize certain CPT codes and specific areas of practice. If they aren't going head-to-head with chiropractors over manipulation, they are fighting for independent practice using inflated degrees.

The strongest way to protect one's interests is to prove that you are providing the best outcome. While APTA has fostered research in this area over the past several years, Physical Therapists have failed to prove they are providing best care. So to ask you to assume that they are and restrict the use of physical medicine codes for use only by "qualified personnel" is ludicrous. Who is defining qualified?

I work in a facility that employs exercise physiologists, athletic trainers, PTs and PTAs. I have been the clinical instructor for countless PT and PTA students over those 25 years and I can tell you that in our clinical practice, non-PT personnel are typically better prepared to provide the services we render. In addition, they are highly trained in house and tested for proficiency with both practical and written exams. Is APTA suggesting I release all the non-PT personnel because APTA says so?

Every treatment we do in our practice is based on peer-reviewed research - our own - or that of someone else. We are providing outstanding outcomes that are well-published - and we are doing so by employing many different disciplines. We consider this a great strength since it allows us to examine and treat our clientele from differing points of view. Our fees are billed using CPT codes incident to the physician. We are able to provide a good outcome at a lower cost, in part, because of our staffing decisions. I am strongly opposed to limiting the use of physical medicine codes to physical therapists. These codes should be left to those who can provide the best outcome not to those who only profess to be the best.

Thank you, sincerely, for your attention to this comment.

Submitter : Mrs. Kimberly Coronel Date & Time: 09/13/2004 09:09:14

Organization : St. Stephens and St. Agnes School

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1328-Attach-1.doc

Kimberly Coronel, MS, ATC
1000 St. Stephens Road
Alexandria, VA 22314

Attachment to # 1328

9/13/04

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my deep concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is

likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kimberly Coronel, MS, ATC

1000 St. Stephens Road

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I believe that it is imperative that only physical therapists or physical therapist assistants (under a physical therapist's supervision) be allowed to provide physical therapy services in any setting. As a physical therapist clinician and educator it is my strong opinion that the provision of physical therapy services by any personnel other than those outlined would violate existing state practice acts and place patients in considerable peril.

I urge clear action to support this position. Thank you.

Submitter : **Dr. Richard W Whitten** Date & Time: **09/13/2004 10:09:50**
Organization : **Noridian Administrative Services - Medicare**
Category : **Federal Government**

Issue Areas/Comments

Issues 1-9

SECTION 611

-----Original Message-----

From: Dick Whitten MD [mailto:dick.whitten@noridian.com]
Sent: Monday, September 13, 2004 14:29
To: Cathleen Scally (CScally@cms.hhs.gov)
Subject: CMS-1429-P re: EKG as a part of Initial Preventive Physical Exam

You have likely already thought of and resolved this, but some of the WA family physicians brought it up, so I thought I'd relay:

Final rule will be most helpful if it clarifies the procedure for when the primary doc has the EKG interpreted by another physician (93010)

i.e. instead of doing the full 93000 equivalent, is doing only the:

93005 Electrocardiogram, routine ECG with at least 12 leads; tracing only, without interpretation and report

This may be a fairly common occurrence, Kit, so it might be easiest for all concerned to have TWO G codes, one with and one without interpretation.

Hope is helpful. [No reply to me needed]. Thanks!!

Dick

Richard W Whitten, MD, FACP
Medical Director, Medicare B for AK, HI & WA

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

see attachment

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1332-Attach-1.doc

Steve Chouinard, ATC
Associate Athletic Trainer
Colgate University
Reid Athletic Center
Hamilton, NY 13346

Attachment to # 1332

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

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- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Steve Chouinard, ATC

Submitter : **Dr. Tona Palmer** Date & Time: **09/13/2004 10:09:22**

Organization : **National Athletic Trainers' Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Tona Palmer, Ed.D, ATC
 Oklahoma State University
 434 Willard Hall
 Stillwater, OK 74078
 September 13, 2004

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

"Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor's or master's degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

To allow only physical therapists, occupational therapists, and speech and language pathologists to p

Submitter : **Mr. Robert Eskew** Date & Time: **09/13/2004 11:09:50**

Organization : **Mercy Health Center**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Dr. McClellan,

As an active member of the APTA, I strongly urge you to maintain the highest standards for those providing physical therapy services within a physicians practice. By definition this would include physical therapists and physical therapist assistants. Without your support we will continue to have untrained, unlicensed personnel performing ambiguous modalities and stating or implying this is physical therapy. It has been happening for years in Oklahoma. Frequently, these patients will arrive at a clinic and state; ? I've had physical therapy and it didn?t work.?

Recently, the state ophthalmology association has run a series of ads decrying the horror of our state legislature allowing optometrists to perform Lasik eye surgery. In bold language they state that an opthamologist is an MD trained in surgery and has completed internships and residencies in their chosen field. Now however, lesser-qualified people are being allowed to put the public at risk with little or no training. To these MD?s I say welcome to our world. Physical therapy is arguably the most encroached upon heath profession in our country. Not counting MD?s and DO?s, chiropractors, OT?s, personal trainers, massage therapists, athletic trainers, kinesiotherapists, and exercise physiologists all have been documented practicing outside their scope of practice in physical therapy.

Among these, licensed PT?s are alone in not having direct-access despite higher levels of training and credentialing.

Please assist us in maintaining high professional standards in the provision of physical therapy services especially to Medicare recipients.

Kindest regards,

Robert A. Eskew, PT, MS, PCS
Chair, Adults with Developmental Disabilities
Special Interest Group
Section on Pediatrics
American Physical Therapy Association

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I would like to express my opposition to physicians billing "incident to" charges for physical therapy services performed in their offices by unlicensed personnel. Not only is this unethical but the patient is not receiving the qualified services they are being charged for. This has been a common practice in the years past and it needs to be corrected.

Sincerely,

Georgianna Barrett, P.T.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Any Physical Therapy billed anywhere should always be done by a registered Physical Therapist. A Dr.s' office does not make it alright for someone off the street to do therapy and bill it as Physical Therapy. A doctor's office would not make it right for someone to do surgery if they are not trained! NEVER should a bill for Physical Therapy be paid, unless that treatment is done by a Licensed Physical Therapist or Licensed Physical Therapy Assistant.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 1-9

GPCI

Please see attached document in Word format.

CMS-1429-P-1337-Attach-1.doc

Attachment to # 1337
September 15, 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: File Code CMS-1429-P, Re: GPCI

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to update the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in a county less than 20 miles from where I live is over 25% greater than for services provided by my doctor. I understand that this is by far the greatest such differential in the country.

Santa Cruz County has one of the highest costs of living in the U.S and many physicians have had to leave the county because of this. We are losing doctors in critical specialties. I believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. I believe that no other county in the U.S. is in greater need of reform than our county. Please take action now to correct this problem before the even more physicians are forced to relocate and before more doctors disregard Santa Cruz county when establishing their practice.

Respectfully,

Paul Weaver
351 Alamo Avenue
Santa Cruz, CA 95060

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

It is unsafe, improper and to allow unqualified personel to provide a service to a patient. The patients get hurt and then they think a physical therpaist did it. With all the audits done it was repeatedly shown that abuse of rehabilitation codes took -place in Physician and Chiropractic offices. Physical Therapy should only be allowed to be performed by a licenced physical therapist or licenced physical therapy assistant. It is and anti-trust issue that develops in some states like Indiana where we are dependant on physician referrals,no direct access, yet you allow an unqualified person to provide the service in a physicians office. It is an anti-trust issue and discrimination against physical therapists,and very unconstitutional. To force a direct supervision upon a physical therapist, by in-room suypervision of a licenced assistant, yet a physician can have an unqualified person provide the service.? Lets treat everyone equally!

THERAPY STANDARDS AND REQUIREMENTS

For the safety of the patients the physical therapy should only be performed by a licenced physical therapist or licenced physical therapy assistant. If therapy is billed incident to a physician, a modifier need to be used to track the abuse so physical therapists are not penalized.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am most concerned that any procedure that is billed as physical therapy be provided only by a physical therapist or a physical therapist assistant.

Submitter : Mr. Aaron Sage

Date & Time: 09/13/2004 11:09:12

Organization : National Athletic Trainers' Association

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2004

Centers for Medicare & Medicaid Services
 Department of Health and Human Services
 Attention: CMS-1429-P
 P.O. Box 8012
 Baltimore, MD 21244-8012
 Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

 Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

 This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

 CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit and in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services and independent research has shown that quality of service from a certified athletic trainer is equal in quality to that provided by physical therapists. To mandate that only certain practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

 Athletic trainers are employed by the Armed Forces to provide care at service academies and at training facilities to provide care of injuries for the members of the military that occur during training and at intercollegiate sporting events at West Point and Annapolis. They are also employed by every professional sports team and employed by almost every U.S. post-secondary educational institution with an athletic program to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States.

 Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care and may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Aaron Sage, MA, ATC
 121 Budlong St.
 Adrian, MI 49221

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Physical Therapy services rendered incident to physician contact should be provided by licensed Physical Therapists. Said professionals are trained at the masters and Doctoral level as opposed to Athletic Trainers, who, slthough qualified to render care in conjunction with Physicians for athletic populations do not have the broader and in depth medical training to safely and effectively treat more varied populations. Being credentialed in both professions and teaching to both professions, I can assure you that this is indeed the case. Furthermore, billing for PT services without licensed professionals to render care would seem fraudulent.

Submitter : Miss. Monica Mueller Date & Time: 09/13/2004 11:09:26

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

If this Medicare revision takes place, certified athletic trainers will NOT be able to assist Medicare patients through their plan of care that is planned by the physical therapist. Instead, the physical therapist will be the ONLY health care professional that will be allowed to treat that particular patient. No assistance will be allowed by ATCs, physical therapy assistants, and physical therapy aides. Certified athletic trainers are highly trained health care professionals and we provide care to athletes at the high school, college, and professional levels. To say that we are not qualified to treat Medicare patients is a slap in the face of every ATC in this country and a degrading of the professional training that we have received to become the highly qualified health care professional.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

To Whom It May Concern: I am writing regarding the proposal from the Centers for Medicare and Medicaid Services (CMS) to allow psychologists to supervise diagnostic testing. Psychologists receive detailed education and training in test theory, statistics, procedures, norming, and interpretation of psychological tests. This process takes place over several years in several settings (graduate school, internship, and sometimes, postdoctoral experience). It only makes sense that psychologists are best qualified to supervise others performing such tests. Psychologists are the most experienced in this area and are best suited to provide oversight.

Thank you for your consideration of this issue.

Sincerely,

Daniel Rexroth, Psy.D., HSPP

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29**

THERAPY - INCIDENT TO

Commenting on the August 5 proposed rule on "Revisions of your letter Payment Policies Under the Physician Fee Schedule for Calendar Year 2005." I strongly support the CMS proposal that qualifications of individuals providing physical therapy services "incident to" a physician should meet personnel qualifications for physical therapy in 42 CFR 484.4, with the exception of licensure. This means that personnel providing physical therapy in physician's offices must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. Physical therapists and physical therapist assistants working under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. The minimum education requirement for a physical therapist is a Master's degree and the majority of physical therapy programs will offer doctor of physical therapy degrees by January 2005. Physical therapists and assistants must be licensed in the state where they practice and are held fully accountable for their professional actions. Allowing the delivery of so-called "physical therapy services" by unqualified, unlicensed personnel is potentially harmful to the patient as these personnel do not have the education or training necessary to ensure safe, quality physical therapy services are provided to our patients. Provision of physical therapy services by unqualified personnel will lead to increased health risks for patients, longer and less effective and efficient rehabilitation, and poorer recovery from injury or illness. Section 1862(a)(20) of the Social Security Act requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals who are graduates of accredited professional physical therapist education programs.

Thank you for considering my comments.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to comment on the provision requiring physicians who are charging for physical therapy to be required to use physical therapists in their offices.

Physical therapists are highly educated professionals who work with patients with physical impairments and disabilities related to illness, injury and chronic conditions. We are the specialists with the educational credentials, and specialized training. Physical therapists are board certified in their states, and subject to laws governing health care situations and patients' rights.

Patients must be able to trust that they are receiving and being charged for the correct services. If no physical therapist is involved in a patient's care, and that patient is being charged for physical therapy, this is fraud.

People who provide "physical therapy" in a physician's office but who are not physical therapists have no accountability for any negative outcomes, and may have absolutely no training in health care issues.

The patients will be the ones to suffer as they are prevented from progressing with the appropriate care. If the "physical therapy" occurs in a physician's office, the patient will not only receive inadequate care, but will not verbalize any concerns to the doctor, because of the relationship of the person providing the fraudulent with the physician.

I trust you will take all comments into account, understanding that your first duty is to the public, and to assure that people are informed and have access to the appropriate care.

Submitter : Mrs. Jean Walter Date & Time: 09/13/2004 11:09:38
Organization : Mrs. Jean Walter
Category : Other

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached letter

CMS-1429-P-1346-Attach-1.doc

Jean Walter
P. O. Box 313
Marion, MD 21838

Attachment to # 1346
September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P. O. Box 8012
Baltimore, MD 21244-8102

Re: Therapy – Incident to

Dear Sir/Madam:

I am writing to express my concern and anger over the recent proposal that would limit providers of “incident to” services in physician’s offices and clinics. My daughter is a senior athletic training student at Salisbury University. I have supported my daughter’s education by paying her tuition for the past four years. I am angry that after all her hard work and all the money I have paid, she will be restricted in where she can work and apply her skills. When I enter the Medicare system, I want to receive therapy services from whomever the physician feels I would best be served. It disappoints me that Medicare is considering this proposal. It is clearly not in the best interest of the patients.

Please take into consideration that physicians have the right to delegate the care of the patients under his/her care to qualified individuals whom the physician feels is knowledgeable and trained in the protocols to be administered. The physician is legally responsible for individuals under his/her supervision. Therefore, the professional judgment of the physician on who is or is not qualified to provide a service has been respected. Changing the “incident to” services reimbursement would not allow the physician to offer comprehensive, quickly accessible care. Patients would be forced to seek separate therapy treatments, causing the patient increased expense and inconvenience. There is an increasing shortage of health care professionals. If physicians were not able to utilize a variety of health care professionals working “incident to” the physician, patients will ultimately suffer a decreased quality of health care.

Athletic trainers provide therapy services to world class athletes at the Olympic, professional, and collegiate level. They also provide services in high schools and at clinics. Why are they being labeled unqualified to provide therapy services to Medicare patients?

Sincerely,

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Pleas See attached file



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I urge you to support legislation that requires that individuals providing physical therapy services in physician's offices be appropriately educated in this particular service and be licensed personnel. Thank you for your attention to this matter.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a licensed physical therapist in the state of Fla, I strongly believe that physical therapy services provided in a physician's office be administered by a licensed physical therapist or physical therapist assistant under direct supervision of a physical therapist. I have oftentimes encountered patients who had supposed "physical therapy" provided by unlicensed/unqualified individuals that wastes valuable insurance coverage without the patient getting results. Physical therapy should only be provided by qualified and licensed physical therapists in or out of a physician's office. Thank you for your time.

CMS-1429-P-1350

Submitter : **Date & Time:**

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1350-Attach-1.pdf

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Michael L. Shew MEd, ATC
634A Freedom Place
Nashville, TN 37209

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I believe that only physical therapist or physical therapy assistance should be allowed to perform physical therapy. That is what we were trained to do. It is not right that any person can perform these duties that need to be done by a trained professional just because a physician is billing the service. Thanks for hearing my comment. Mary Hydorn P.T.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Physicians, not government workers, should decide what care and treatment are in the best interests of their patients, and who should provide it. Athletic Trainers' education and scope of practice ensure they are expert providers of outpatient therapy services.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am in favor of the use of trained and supervised psychological technicians (psychometrists/psychometricians) to administer psychological and neuropsychological tests. As a neuropsychologist, I am well-versed in the tests and the purpose of testing, and can supervise a trained psychometrist in administration and scoring of tests that I have determined are appropriate for a specific evaluation. This affords the neuropsychologist more time to review relevant records, interview the patient and collaterals, interpret and write the reports, and ultimately to see more clients and respond to more consults (e.g., in a hospital setting).

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The most important issue here is: 'What is the best way to protect the public?' I think the only answer is to have licensed Physical Therapists from APTA accredited programs oversee all physical therapy services. In this way, it will guarantee that physical therapy services will be supervised by physical therapists. A physical therapy assistant must work under the DIRECT SUPERVISION of a physical therapist. This protects the public. Having an on-site office worker trained isn't safe! Having a physician bill for physical therapy services is also a dis-service to the public because a physician is not trained in medical school to do physical therapy and therefore, the public will receive sub-standard services. This is not a protection to the public and the public isn't getting their money's worth of services.

Allow physical therapists to be the exclusive providers of physical therapy and the standards of care for the public is rise and be protected.

Thank you, John Baker, PT

Submitter : Mrs. Jane David Date & Time: 09/14/2004 01:09:19
Organization : Jackson State Community College
Category : Physical Therapist

Issue Areas/Comments

Issues 10-19

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support CMS's change for physical therapist assistant practice in the private practice setting to be changed from personal to direct. I have taught PTAs for eight years and can verify that the PTA's training prepares them very effectively for this level of independence in the workplace. They also deserve such status as a paraprofessional.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

As an active practitioner in the area of sports medicine I would like to take this time to discuss the proposed change in the Medicare provider bill. As a Certified Athletic Trainer it is appalling to think that the physical therapy lobby could control patient care in a society in dire need of quality health care. Athletic Trainers are qualified allied health care professionals who have been treating athletes for decades. To think that our skills do not translate to this population is not only a disservice to Athletic Trainers and the educators who train them, but also to the patients who would benefit from our high quality of care, Please do not let the lobby of one organization dictate the health care of thousands of needy individuals. Thank you for your time and consideration.

Alan Kroll M.S,ATC

Submitter : Mr. jeffery jadcza

Date & Time: 09/14/2004 01:09:04

Organization : dynamic pt

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

My name is jeffery jadcza, B.S., A.T.,C, M.P.T., D.P.T., M.T.C.. I have a hard time understanding why this is even a topic of debate. It would not be unethical for me as a physical therapist to bill for any services other than physical therapy services. Why should it then be acceptable for a physician, nurse, PA, chiropractor, ect to bill under the codes in question? The codes which are no part of their practice act. I am not legally or ethically permitted to bill under codes which are out of my domain. As far as I can see it this is only leveling the playing field.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

Dear administrator,

Thank you for taking my comments on this issue. As a practicing physical therapist in the state of PA for the past three years, this issue seems very clear to me. I have four years of undergraduate training and three years of graduate training designed to educate me to specifically provide physical therapy services. It seems that I am uniquely educated and licensed to provide these services in the same way that a physician or athletic trainer is specifically trained and licensed to provide certain services. As I have not been trained to provide the same services as they, I would not expect to be able to perform them adequately in order to ensure the best possible care for my patient or to ethically bill for such services.

The very nature of my educational program and government regulations concerning licensing is to ensure that the proper care is given by the appropriately trained provider. It seems that this change to the Medicare legislation only strengthens this appropriate idea.

I have a great deal of respect for my fellow healthcare providers. I would not presume to pass care to a patient that I am not specifically trained and licensed to do so and as such, I should certainly not bill for said services.

Thank you again for considering my viewpoint on this issue.

Sincerely,

Brett Scheidt, DPT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 13, 2004

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

?Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient ?There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

?To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

?CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

?Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

?CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Noah Eckl, LAT / ATC

Licensed Athletic Trainer

Aurora Rehabilitation Center

146 East Geneva Square

Lake Geneva, WI 53147

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29**

THERAPY - INCIDENT TO

I find it disheartening that physicians are allowed to say they are providing physical therapy services in their offices - yet do not employ a physical therapist, but rather have an unlicensed, uneducated technician. Physical therapy is NOT a generic term. It is my profession. I have worked hard for 25 years in my career and do not understand why people continue to claim they are doing "physical therapy" but have no formal education in this field. This is deceitful and can be harmful to the public. I am not aware of any other profession that has this problem. I have patients who come to our clinic and claim they received physical therapy at their physician's office - yet we know the physician does not employ a licensed physical therapist. The patient received "ultrasound" - this is NOT physical therapy. Physical therapy is the combination of my academic education and my clinical education - it is the body of knowledge and the clinical skills that I have after 25 years of continuing education. I maintain my competency and license - which demonstrates to the public that I possess these skills. I feel physicians should be held to the same Medicare standards and that if they claim to provide physical therapy services - then it should be provided by a licensed physical therapist, not a medical technician, not an athletic trainer, not a massage therapist. If a physician wants to employ those professionals - then he should accurately describe what treatment the patient will receive and from whom they will receive it from - giving the patient their credentials. Thank you for allowing me to comment on this issue.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

'Therapy-Incident To:' I am a physical therapist practicing in rural Washington State. I take strong objection to charges coming from a physician's office being billed under physical therapy when no physical therapist is present or overseeing the treatments provided. I went to school for 7 years to offer professional physical therapy services and it is insulting to me that others, with no physical therapy background or schooling, can bill for physical therapy services. Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill 'incident to' for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

I want to support legislation that would make it mandatory for physicians to only bill PT services only if supervised by a licensed PT. I want to express strong support for CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional

physical therapist programs. I want to strongly emphasize that physical therapists and physical therapist assistants under the supervision of physical therapists are the ONLY practitioners who have the education and training to furnish and bill for physical therapy services. Unqualified personnel should NOT be providing physical therapy services. MDs and their staff are not licensed to practice physical therapy just as I am not licensed to practice medicine.

I have not even begun to speak about quality of care to patients given by non-licensed individuals.

Thank you. Daniel Carl Burns, Masters of Science in Physical Therapy, owner of Ocean Shores Therapy Services

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am director of an outpatient rehab clinic. To show the magnitude of the problem with non-licensed personnel delivering physical therapy services:
I received a resume on my desk two days ago from a massage therapist (not a PT or licensed Assistant) who listed his most recent employment at a chiropractic clinic in San Diego as a "physical therapy tech". He stated he was "Head of the Physical therapy program" and that he "set up individualized treatment plans based on patient needs" and "educate patients on proper breathing and body mechanics during exercise regime."
Please stop this practice of physicians billing for physical therapy by non-licensed persons!

CMS-1429-P-1363

Submitter :

Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached file

CMS-1429-P-1363-Attach-1.doc

Michael A. Waters, ATC, LAT, CSCS
700 Nelson
Diboll, TX 75941

Attachment to # 1363
September 14, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

* “Incident to” has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

* There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY “incident to” service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

* In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

* This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

* Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

* Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.

* Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor’s or master’s degree*** from an accredited college or university.

Foundation courses include: human physiology, human anatomy, kinesiology / biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master’s degree or higher. This great majority of practitioners who hold advanced degrees are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

* To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide “incident to” outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide “incident to” outpatient therapy in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

* CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

* CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

* Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

* Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top

athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Michael A. Waters, ATC, LAT, CSCS

Submitter : Mr. Jan Dommerholt

Date & Time: 09/14/2004 03:09:18

Organization : Pain

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am thrilled that Medicare is considering that physical therapy services in doctor's offices can only be rendered by licensed and otherwise qualified physical therapists and physical therapy assistants. I am a physical therapist and I am employed in a doctor's owned medical facility. Physical therapy services in our office are only provided by licensed physical therapists. The majority of our patients have been seen elsewhere with complaints of chronic and persistent pain. Many of those patients have received what they perceived to be physical therapy by what they thought were physical therapists. Because the "PT services" were in fact provided by unlicensed individuals working for a doctor who prescribed and directed the so-called physical therapy, these patients never benefitted from the unique evaluative and analytic skills of licensed physical therapists, never received a physical therapy diagnosis, prognosis, and a detailed and evidence-based physical therapy treatment plan. Needless to say, they did not get better. Physician-directed "physical therapy - like" services rarely get beyond random applications of ultrasound, traction, some non-specific exercises, and moist heat, which to the best of my knowledge has little to do with skilled physical therapy services. It is indeed a sad reality that certain physicians benefit greatly financially from prescribing and directing services that the public may perceive as physical therapy, which are not implemented by licensed physical therapists. The majority of our patients are amazed what a difference a licensed physical therapist can make in their lives. I am not proposing to ban physicians from the management of such patients. After all, in our office physicians are an integral part of the rehabilitation process. However, allowing physicians to use non-skilled office workers to deliver "physical therapy - like" services is a crime and does not represent the unique skill set of licensed physical therapists. Licensed physical therapists in the US are graduates from accredited educational institutes or have undergone stringent evaluation of foreign credentials before being allowed to sit for national board examinations. I would predict that limiting physical therapy to only licensed physical therapists will reduce the actual costs to Medicare in paying for physical therapy related services. Physical therapists commonly follow national professional guidelines, such as the Guide to Physical Therapy Practice, which most physicians are not familiar with. This new revision will provide a much better environment in which patients in the US will benefit greatly from the unique skill set, experience, education, etc. from licensed physical therapists. I would urge you to stop physicians from rendering so-called physical therapy services unless these services are rendered by licensed physical therapists. In addition, I am very concerned about the proposed financial limitations scheduled to become effective January 2006. The so-called "Medicare therapy cap" would apply to individuals who may never have received skilled physical therapy services as long as physicians can bill Medicare for unskilled "physical therapy - like" efforts.

I would like to thank you for considering my comments.

Sincerely,

Jan Dommerholt, PT, MPS, FAAPM
Fellow, American Academy of Pain Management
Bethesda, MD

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Student Athletic Trainer comments

CMS-1429-P-1365-Attach-1.txt

Attachment #1365

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

To whom it may concern:

I am writing this letter in response to “Therapy—Incident To.” My name is Erin Fletcher and I am a junior in the athletic training program at Whitworth College in Spokane, Washington. Four years of our college careers are spent intensely involved in practicing and perfecting our skills as Athletic Trainers. We learn everything from emergency care to rehabilitation of injured athletes. Our program prepares athletic trainers to do just that: rehabilitate athletes. I was very saddened to hear that the APTA is trying to stop ATC’s from working in the non traditional setting. Our program teaches and prepares us to adequately rehabilitate athletes. For the APTA to judge us unqualified to provide therapy is wrong. My career plans were leaning toward working in a clinic and the APTA is trying to stop that. For them to say that four years of my hard work is worth nothing has no validity. Please do not pass these proposed changes. Certified athletic trainers are more than qualified to work in onsite rehabilitation services, home programs and provide lifestyle and fitness routines. Please consider what good will come from taking ATC’s out of this setting. I cannot think of any.

Sincerely,

Erin Fletcher
Student Athletic Trainer
Whitworth College

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Student Athletic Trainer Comments

CMS-1429-P-1366-Attach-1.doc

Attachment to # 1366
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
PO Box 8012
Baltimore, MD 21244-8012

To Whom It May Concern:

I am writing in response to the proposal which would limit the practice settings and patients of a certified Athletic Trainer (ATC). Work in outpatient centers such as physical therapy clinics constitutes a significant portion of settings in which Athletic Trainers practice. Secondly, this act would prevent an ATC from interacting and treating this nation's geriatric population. Finally, this is an insult to the profession of Athletic Training, questioning the competence of a professional healthcare provider.

Under these new regulations which are suggested, these opportunities to serve the injured or unhealthy will be eradicated. An ATC is trained in the prevention, treatment, and rehabilitation of injured people. Work in rehab centers such as physical therapy clinics has proven to be an appropriate setting for a certified Athletic Trainer to practice.

Athletic Trainers typically work with athletes. However, this should not limit their profession to the training room of a high school, college, or professional athletic setting. They are trained to give care, including rehabilitation therapy, to the physically active regardless of age, race or gender. Under this new law, Medicare and Medicaid patients would also suffer the ramifications of limiting the ability for an Athletic Trainer to provide services that they are qualified to provide.

Athletic Trainers and Physical Therapists alike serve under the direction and supervision of a physician. Implying that an ATC is ill-equipped to serve Medicare and Medicaid patients is an insult to the profession. An Athletic Trainer is more than qualified to treat outpatients, especially under a physician's supervision, which is what is done with athletes in training rooms across the country. ATCs have the professional credentials to care for the country's elite athletes. The human body is the human body no matter what age it is. Being insured by Medicare should not limit the choice of care these patients have.

As healthcare providers, we are all in the same boat, with the same goals. We are here to serve the patient so they might be healthy. Let's work together to provide the best care we can to people, not accounts. Let's keep this about the patient and not money.

Cameron Collings
Athletic Training Student
Whitworth College

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear CMS:

I am a practicing physical therapist and the owner of a private practice in California. Please accept my comments regarding the August 5 proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005."

It seems to be obvious that, for the protection of the public, only a licensed physical therapist should provide physical therapy. I therefore write to support your proposal that would establish this standard for personnel providing physical therapy services in physicians' offices.

The standard of licensure is one that is established and physical therapists go through extensive training and education to be able to perform. Further, of the many dozens of physicians who I have spoken regarding the treatment and evaluation that we physical therapists provide, there is not one who would profess to truly understand anything more than the rudiments of our profession. The provision of physical therapy by any other individual would be an unnecessary risk to the public.

Thank you for your time.

CMS-1429-P-1368

Submitter : **Date & Time:**

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Therapy - incident to

Please see attached file

CMS-1429-P-1368-Attach-1.doc

CMS-1429-P-1368-Attach-2.doc

Melisa Fazio, ATC
3751 Appian Way, #150
Lexington, KY 40517

09/13/04

Attachment to # 1368

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and

goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Melisa Fazio, ATC

3751 Appian Way, #150

Lexington, KY 40517

Melisa Fazio, ATC
3751 Appian Way, #150
Lexington, KY 40517

09/13/04

Attachment 2 to # 1368

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

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- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
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goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Melisa Fazio, ATC

3751 Appian Way, #150

Lexington, KY 40517

Submitter : Verena Cuzzourt Date & Time: 09/14/2004 04:09:09

Organization : Verena Cuzzourt

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1369-Attach-1.doc

Attachment to #1369

Verena Cuzzourt, ATC
17112 Monthaven Park Place
Hendersonville, TN 37075

September 13, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

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- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Verena Cuzzourt
17112 Monthaven Park Place
Hendersonville, TN 37075

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing in support of this proposed rule.

CMS-1429-P-1370-Attach-1.doc

Attachment to #1370

Dear Administrator;

I am a physical therapist who works and practices out patient therapy in suburban Philadelphia. I have been a practicing physical therapist for 8 years. I began treating in nursing homes (SNFs) and hospitals, and I've held positions in CT, GA, and PA. I have seen a good variety of healthcare environments and huge variants in the quality of the care provided. My outpatient experience includes a year in a hospital based center, a brief position in a physician's office, and the last 4 years at a physical therapist owned private practice. I believe my experience enables me to intelligently comment on a variety of healthcare services, especially out-patient physical therapy.

I am writing in support of the August 5 proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005." As you know, this rule proposes that individuals who furnish outpatient physical therapy services in a physician's office, "incident to" a physician should meet personnel qualifications for physical therapy in 42 CFR §484.4, with the exception of licensure. In my words this would mean that the person who is billing physical therapy codes in a physician's office would have to be a graduate of an accredited professional physical therapist program or would have to meet grandfathering clauses or certain educational requirements for foreign trained physical therapists.

I strongly agree that physical therapists who work in physicians offices should be graduates of accredited professional physical therapist program. However, I do not understand why the law prevents the CMS from requiring licensure. You have to graduate from an accredited program and pass a test to become a licensed physical therapist. If you are foreign trained you have to meet certain requirements and pass a test to be come a licensed physical therapist. Obtaining a license means that you met the BASIC requirements to safely practice as physical therapist in that state. Therefore, it makes sense to me that licensure is the most efficient and easiest means for both the physician and the public to ensure that the person providing their therapy meets basic qualifications.

In order to obtain a license, a therapist has to graduate from an accredited program with at least a Master's Degree. Physical therapists assistants typically have an Associate's degree and only work under the supervision of a physical therapist. I firmly believe these are the only persons who are qualified to say they provide physical therapy. I would not let anyone who didn't meet these qualification perform physical therapy in my clinic and I would not let any of my friends or family be treated by someone without this basic criteria. Only licensed therapists are fully responsible and accountable for their professional actions.

As a physical therapy, I have received an extensive education and training in anatomy, and the mechanics of the human body. In addition to my clinical experience, I have attended many hours of continuing education and sought several additional certifications. My certification in orthopedic manual therapy, could not have been obtained by any practitioner other than a licensed PT, MD, DO or DC.

Since the current law does not allow CMS to require licensure, I guess that requiring the person be a graduate of an accredited program is the next best thing. I don't see how anyone could go through that intense education and be basically qualified.

I feel strongly that there need to be standards for who can provide physical therapy services. On a personal note, I worked for an Osteopathic Physician, practicing physical therapy in the physicians' office. I was alone, in my own room with many, many patients the doctor sent back to see me. At the time I had 4+ years PT experience and I did not at all feel I was able to provide the best of physical therapy care because of the volume I was asked to treat and because I did not have other PT's around to bounce problems off of. My 4 years clinical experience was not enough for me to feel comfortable that I was treating in the best interest of my clients, most of whom were elderly. I resigned from that position after only 4 weeks (even though it did pay well.) I could not imagine that a practitioner who did not meet the basic requirements I did would be able to successfully and efficiently provide "physical therapy services" incident to that physician.

In addition, the therapy cap (a yearly financial limitation on therapy services) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. This money can quickly be used up with less than a month of service, leaving the patient unable to obtain payment for physical therapy services for the rest of the year. This hurts the patient; especially with a cap, the patient needs to be treated by an efficient, highly qualified individual to help them reach their goals within a limited number of sessions. CMS needs to ensure that the practitioner providing physical therapy meets the educational requirements to do so, in order to provide the best quality service in least amount of sessions. That is why I support this rule.

Thank you for your consideration of my comments. It is an honor to think that my suggestions and comments will play a part in a decision making process like this. It's another thing that makes me proud to live in the USA.

Sincerely,

Craig Fava, PT

41 W Turnbull Ave, Apt 1
Havertown, PA 19083

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I submit that this proposal is unnecessary, unfair and will result in limited patient access, increased health care costs and restricted physician control in patient care.

This is an attempt by one group of professionals to gain exclusive access as the only option for therapy services. This is a dangerous path.

I strongly urge the CMS to deny this proposal.

Tim Donofrio, MS, ATC
Director
Newsome Physical and Hand Therapy
Naperville, IL

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29**

ASSIGNMENT

If our employer/group is allowed to bill and collect payments on our behalf, it is imperative that the employer/group be obligated to provide monthly statements to each physician showing exactly what services have been billed on the physician's behalf. Individual physicians cannot be held accountable for what their employer/group bills on their behalf if they have no ready access to this information. Many "groups" in this country routinely withhold this information from their employees (physicians). If the CMS reserves the right to hold individual physicians accountable for what is billed on their behalf then it stands to reason that the CMS must necessarily in turn mandate that all physicians must be routinely provided with regular statements of their billings. Indeed each individual physician ought to have ready access to this data (via secure internet access for example) on a regular basis. As a condition of employment many physicians are required to assign their billings to the employing group. However the group in turn is under no legal obligation to provide the physicians with their billing data. Indeed many physicians are too intimidated to demand that their employers provide access to their billing data for fear of losing their jobs. It's time for the CMS to do the right thing and require that employers provide billing data to the physicians. This would be the only fair way to ensure accountability.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29**

THERAPY - INCIDENT TO

As a PT I strongly agree with CMS-1429-P which would establish higher standards of care given by accredited PTs and PTAs in physician offices that own their own PT. This would level the playing field in many areas. Physical therapy is a specialty all of its own and should be treated as such. With the amount of schooling we have and the need to take a licensure exam for the ability to treat patients makes our profession a respected one in the health care field. If non-credentialed people are allowed to treat patients in physician offices then it should not be called physical therapy and not be reimbursed as such. Physical therapists hold themselves to a higher standard of professionalism and have many rules, regulations and code of ethics to follow and abide by to allow us to evaluate and treat patients that deserve our skill and knowledge base. I would not like my mother or father to be seen by an under skilled, non-therapist or supervised PTA in an office just because the office is based in a Drs. practice. We do not allow just anyone to provide medical care as a physician without education and federal or state regulations defining who and what the profession requires. We should abide by these same standards for PTs and allow only the professionally trained and supervised PT/PTA to do physical therapy at all times, in all physical settings. This proposal will mean a lot to the physical therapy profession, as it will help outline who is skilled to call themselves PTs and do physical therapy treatment. Thank you for your time. Sincerely, Nathan T. Tear, MS,PT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please make sure that a qualified physical therapist or a qualified physical therapy assistant is providing the services. We care for our patients well being!

Submitter : Mrs. Laura Wilczewski Date & Time: 09/14/2004 11:09:51
Organization : Mrs. Laura Wilczewski
Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I wrote last week in support of PT's being able to supervise PTA's in the same office but not needing to be in the same room. I would like to add to those comments to add that I in support of only PT's or PTA's being able to provide physical therapy services. I completely oppose unqualified personell billing for PT services. This is fraud. Only PT's and PTA's have been through the appropriate schooling and have the appropriate expertise to be able to bill as physical therapy. Thank you for your consideration of this matter.

Submitter :

Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached file

CMS-1429-P-1376-Attach-1.doc

Attachment to #1376

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing

- the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
 - CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
 - CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
 - Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
 - Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
 - These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jeffrey B. Driban, MEd, ATC, CSCS
Doctoral Student, Department of Kinesiology
Temple University, Philadelphia, PA
Certified Athletic Trainer, Department of Orthopaedics
Temple University Hospital, Philadelphia, PA
Certified Athletic Trainer, Dept of Athletics
Swarthmore College, Swarthmore, PA

Submitter : Miss. Ann Evans Date & Time: 09/14/2004 12:09:14

Organization : NovaCare Rehabilitation

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1377-Attach-1.doc

Ann Catherine Evans
556 Hoge Street
Cincinnati, OH 45226

9-14-04

Attachment to #1377

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Ann Catherine Evans

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**GENERAL**

GENERAL

I am in support of AAEM's position requiring contract groups to provide billing information to physicians for whom they submit medical claims. I am not an AAEM member. In the past I have served on the Board of Directors of a billing company and contract group and can attest that this information would never be provided to a physician even if a policy existed to allow the provision of financial information. If a physician will be held liable for billing related sanctions they he/she should be required to review the billing data. If the physician review such data then they would become a compliance tool ensuring accurate coding and documentation for all patient encounters. Additionally medical billing entities would be forced to become more efficient and accurate if they were required to provide this data back to the physician.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To Whom it may concern,

I am a practicing athletic trainer in Texas and would not like to have my creditanls lessened in the eyes of payers because of a special intrest group(s). I believe that under the direct supervision of a Physcian that I can continue to provide very professional, competent physical medicine rehabilitation to Medicare patients. My scope of practicie allows for this.

Sincerely

George G. Timmins LAT, ATC

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I do not wish to have my team physician lose his decision making power on the ability of an Athletic Trainer to treat nay recreational injury. These individuals have been trained to treat these types of injuries regardless of age. This decision to alter Medicare regulations would limit the public's right to access to highly qualified professionals.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

It is apparent here that physical therapists are attempting to monopolize the business of rehabilitation. Athletic Trainers are skilled professionals that are trained to work with a variety of injuries. They require advanced degrees and continuing education just as a physical therapist would and maintain the clinical skills necessary to work with a wide range of patient populations and injuries. Whether this is in a post surgical capacity or the treatment of a chronic condition. If we pass a regulation such as this we are not only de-valuing the importance of the certified athletic trainer we are performing a disservice to those individuals in need of excellent medical care. Before passing such a standard as this I feel that the profession of Athletic Trainers needs to be examined more closely and see their obvious value to the medical profession specifically rehabilitation.

Submitter : Eric Huffman Date & Time: 09/14/2004 12:09:14

Organization : Huffman Enterprises

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The quality of Physical Therapy services are completely and absolutely dependent on the personnel performing them. Therefore only PT's and PTA's should be authorized to deliver these services, even in a physician's office. PT's and PTA's are able to delineate the best practice for returning the patient to full function the most efficient way possible. Unqualified persons do not have the critical thinking and decision making skills to follow best practices, therefore ineffective, inefficient, often palliative and wasteful care is given.

Submitter : Ben Reed Date & Time: 09/14/2004 12:09:29

Organization : Chapel Hill High School

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. A physician should maintain the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

Submitter : **Mrs. Chandrika lotwala** Date & Time: **09/14/2004 12:09:28**

Organization : **Mrs. Chandrika lotwala**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

TO CMS:

I am a PT working for orthopedic group. I am lucky where MD's believe in PT's and their education level. All PT's have there Medicare UPIN and provider numbers under the group ID number. But there are few practices especially MD's in family practice or a small practice hire PT techs from the 6 week program where they learn how to use the Ultrasound machine and how to do few exercises. MD's and now Chiropractors are cashing on this cheap labor and treating our seniors for Physical therapy without giving them their rights to be seen by a licensed PT who has to go to school for 4 yrs to earn Bachelor's degree and than masters or Doctorate level degree for next 3 years. On top of it they have to pay \$100,000 plus loan money to pay off for their education as well.

Many sports medicine practices are hiring ATC's who have knowledge of sports and injuries on the field and acute treatment but they do lack the deeper knowledge which PT's have reference to Pharmacology and diseases. If ATC's are allowed to bill for PT codes than why PT's should go to school for 7 yrs? Our field of Physical therapy has been controlled by MD's for years and it is about time that PT's can not work with MD's at all and MD's should not bill for PT at all and if they do it should require the PT license number and credentialing under MD group number to provide these services.

I have had a patient who came to us after long history of back pain. She was seen by her family physician and received hot pack, Ultrasound and massage. Her Medicare was billed under MD Medicare provider number. The fact is that this MD was in office only 2-3 days and patient was seen daily. So there was no supervision. During this time the cap for PT was on for \$1500.00/max and patient had used up almost \$1,000.00 for those services. When patient did not get well was referred to a specialist and he referred patient to a physical therapist. This patient had no clue that PT's are highly educated and there is a difference between treatments. Unfortunately once patient cap was used up he had to pay cash to continue PT to get well. Patient did recover with appropriate treatment and was happy.

This incident tells you and hope makes you think that only PT's who are licensed by state can do PT under any situation to treat our seniors and do not allow anyone to abuse the funds allocated to these patients specially when funds are limited.

I am very proud to be a PT and I respect MD's for their level of education but staying within limits is the best way to treat a patient. Our profession is also worried about the cap scheduled to become effective January 1, 2006. This will limit the number of visits patient can have for their condition. A patient could exceed the cap on therapy without ever receiving services from a licensed physical therapist.

Delivery of PT services under incident to rule should be supplied only by licensed PT under their own Medicare provider number assigned to the group wit GP modifier to show that Physical therapy was performed by PT only. Medicare must ask for all MD practices to be able to bill for Physical therapy services to require Medicare UPIN and provider number. This will assure and confirm that PT billing under PT's provider number. This way patient is getting the full benefit of MD and PT services under one roof.

I want to thank you for reading my concerns.
Sincerely,

Chandrika Lotwala
AZ License # 1275
10324 N. 62nd Drive
Glendale, AZ 85302-1231

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I fully support the revision of the rules regarding supervision of technicians in outpatient services. This is an important and necessary change, and will greatly enhance patient access to care. As someone who works primarily with older Americans, and those with dementia disorders, this change will help us to provide the best level of diagnostic services.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support the incident to language being proposed as it raises the level of accountability for those therapy services being provided in a physician's office. We must assure that therapy is being provided by qualified individuals and without the incident to language, medicare risks exposing medicare patients to therapies that are not necessary and / or not appropriate for the patient's specific movement dysfunction.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I am a physical therapist in support of the provisions in the proposed physician fee schedule rule. I strongly oppose use of unqualified personnel to provide services described as physical therapy. Interventions should be represented and reimbursed as physical therapy only when performed by a physical therapist or physical therapist assistant under the supervision of a physical therapist.

Submitter : **Mr. Ron Yerman** Date & Time: **09/14/2004 01:09:43**

Organization : **Fletcher Allen Health Care**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I write to denounce that provision of physical therapy services as intended in CMS-1249-P is not in the best interest of Medicare recipients, and that cost effectiveness for CMS would be any different than it is now. I work as the manager of outpatient rehab services in and academic teaching healthcare setting in Burlington Vermont, and have been a physical therapist since 1996; I carry an MBA in Health Care Administration. Currently, the physical therapy profession's dedication to identifying 'best practices' in physical therapy exceeds the capacity physicians or nurses could contribute to identify treatments that are clearly worth paying for and will commonly result in health improvements for the patient. Graduates from Physical Therapy programs whom were unable to pass the licensure exams that define the level of competency required to interact with disease processes, can hardly contribute to identifying 'best practice' guidelines. Providing physical therapy should not be seen as a 'modality' that can simply be rendered by professionals whom carry licenses in medicine or nursing. Does CMS allow non-licensed nursing care under the guidance of a physician in a private setting?

Credentialing/licensing insures the public's safety by holding individuals who interact with the public accountable for their actions. The arrangement proposed by CMS-1249-P removes the accountability from non-licensed therapists and escalates it onto the supervising practitioners.

This creates a gap in accountability by enabling individuals who are not bound to the laws and standards that encapsulate physical therapy the opportunity to make mistakes without the same retribution felt by a licensed therapist. This in turn increases risk for liability, and patient safety. Though accountability escalates onto the 'supervising' professional, we still will be introducing a large component of physical therapy treatment that detracts from the standards set forth in licensure statutes that all states have determined necessary to protect our public.

Who will mentor the non-physical therapist? A person who failed their licensure exam, a professional knowing only the basic principles of physical therapy? This type of arrangement will likely rub up against the efforts to institutionalize best and cost effective practices already underway in accredited institutions like ours in Vermont.

I pose an argument that introducing non-licensed personnel to practice physical therapy will detract from advancing treatment patterns that will improve outcomes and cost effectiveness, and will add to the personal risk the public endures when receiving physical therapy services rendered by non-licensed personnel.

Finally, patient access to physical therapy services in most areas of Vermont is limited due the geography of our state, and the socioeconomic status of the majority of its work force. The uninsured, and underinsured, certainly live here. It seems the problem with access to healthcare services is paramount and must be addressed. It also seems CMS-1249-P poses the idea that access to physical therapy will be optimized in certain areas, and in a sense addresses to a degree the issue of access. The question is access to what? Not access to best practice, or safest means of recovery. Not access to 'physical therapy' if one considers that in most of the offices where 'Therapy Incident-To' will occur, not one 'physical therapist' will be present.

Direct Access to Physical Therapy legislation is pending all over our country. Facilitating access to licensed physical therapists, by removing the red tape we know as physician referral will better enable patient access to best and safe physical therapy service. Let's not compromise, when we can provide the access suggested in CMS-1249-P by allowing therapists who can best treat patients to treat them without dropping dollars along the way to them.

Sincerely,
Ron Yerman PT, MBA (09/14/2004)

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support the CMS rule change regarding outpatient supervision of technicians.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist, I have a great deal of pride being able to deliver quality physical therapy to my patients. I have over 250 hours of continuing education under my belt and am currently pursuing my doctorate in physical therapy. I am extremely concerned re: the "incident to" provision that may allow other professions to bill for physical therapy, even though they are not licensed PT's or PTA's.

First of all, billing aside, it can be a potentially dangerous situation for patients receiving this care. Patients can potentially be injured, if a PT or PTA is not administering the treatment. If another practitioner thinks that he/she is qualified to deliver the care that we provide, they should take a look at our educational background for PT. MD's do not even have the training to do what we do, never mind another unskilled health care professional or trainer, etc.

In order to protect the best interest of our patients, we must let physical therapists continue to do what they do best, which is provide physical therapy. If you people want to provide and bill for physical therapy in a safe effective manner, go to school and become a licensed Physical Therapist. Thank you for your consideration.

Sincerely'

Mark Powicki, PT, MS, CSCS, Executive Director
All-Access Physical Therapy, Inc.

Submitter : Mrs. Antoinette Sander Date & Time: 09/14/2004 01:09:04
Organization : American Physical Therapy Association
Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I urge you to support legislation that assures that all patients seeking physical therapy services, especially those finding services within a physician's office, receive therapy from a licensed physical therapist. Thank you for your attention to this important matter.

Submitter :

Date & Time:

09/14/2004 02:09:14

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I stongly support the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. We have a situation here in our town where a physician is providing "physical therapy" "incident to" in his office using people off the street with no training and no real supervision. He is ripping of the patients as well as the insurance companies. This standard would put a stop to those types of scams.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments**Issues 20-29****THERAPY - INCIDENT TO**

I am writing to express my concern. There are many advantages to having Certified Athletic Trainers (ATC's) care and treat Medicare patients. Athletic training educational programs have made great strides in advancing the quality of education by requiring all programs to be accredited through the Commission On the Accreditation of Allied Health Education Programs (CAAHEP). Once a student has completed a CAAHEP approved education program, they can then sit for the Board of Certification (BOC) exam. In many states, ATC's are also licensed, which further protects our jobs as qualified healthcare professionals. An ATC's knowledge base is broad. It includes immediate first aid, rehabilitation, care of injuries, prevention of injuries, assessment of injuries, kinesiology, anatomy, exercise physiology, psychology, and much more. All ATC's must complete Continuing Education Units (CEU's) to maintain their status. Many also continue to educate themselves through Master's degrees and Doctorate degrees. Because of our education, training, and knowledge base, our skills can be put to use in, not only "physically active" populations, but in all populations. We provide a quality of care that has been shown to create fantastic outcomes. We are a functional profession. We focus on people being able to complete a task, not how many degrees of knee flexion they have. Furthermore, ATC's contribute to improving the healthcare crisis in this country because of our high quality of care. Our outcomes have shown that patients under the care of ATC's recover at a faster rate than those of physical therapists. Please keep in mind the importance of ATC's. We are educated, qualified, and willing to treat Medicare patients. Don't take away what we have worked so hard to create. We are qualified healthcare professionals.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 14, 2004

As a Certified Athletic Trainer I am quite disturbed regarding the issue of medicare reimbursement for our profession.

In order to sit for the NATABOC exam there are a multitude of courses that need to be completed.

- Anatomy & Physiology:
- Kinesiology& Biomechanics:
- Pathology:
- Exercise Physiology:
- Neurophysiology:
- Pharmacology:
- Modalities:
- Therapeutic Exercise:

I believe a Certified Athletic Trainer belongs in any health care setting that provides physical rehabilitation of the musculoskeletal system of the human body. We all have unique skills and training protocols that are integrated into our rehab program. It would be a disservice to our patients to not have access to a Certified Athletic Trainer.

Being a team member is proven to be the best approach in the Evaluation, Prevention, Treatment, Management, and Rehabilitation process of our patients success.

It would be more cost effective for the patient to be able to receive treatment at the physicians office or the sports medicine clinic.

As sports medicine specialists we should be highly utilized in all health care industries. We have advanced degrees and certifications. Continuing education is incorporated on a daily basis. We are professionals of the highest caliber. Don't underestimate our education, skills, training, and abilities.

The keys to success are education, knowledge, commitment, and passion.

Thank you,

Chris Bellizzi, ATC
USCG Academy
15 Mohegan Av
New London, CT 06320

Submitter :

Date & Time:

09/14/2004 02:09:26

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To administrator:

I have been a licensed physical therapist for 25 years and have worked in ambulatory outpatient centers, acute inpatient hospital settings, education and administration (including regulation). I strongly support CMS's proposed requirement that physical therapists working in physician's offices be graduates of accredited physical therapist programs. Physical therapists and physical therapist assistants are the only practitioners who have the education to furnish physical therapy services. Physical therapists are licensed in their states which makes them fully accountable for their professional actions. The delivery of so-called 'physical therapy services' may be harmful to a patient. Thank you for the consideration of my comment. Sincerely, Sue A.

Submitter : **Tanner Stoner** Date & Time: **09/14/2004 02:09:22**
Organization : **Tanner Stoner**
Category : **Health Care Professional or Association**

Issue Areas/Comments

GENERAL

GENERAL

Tanner Stoner
1331 63rd St.
Des Moines, IA 50311

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? ?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

? CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Tanner Stoner ATC

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

"Please see attached file"

CMS-1429-P-1398-Attach-1.doc

Attachment to #1398

William T. Lyons
Dept 3196, 1000 E. University Av
Laramie, WY 82071

September 14, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I have been a practicing health care professional and academician for over thirty years. During this time I have had the opportunity to educate and encourage many young people to become part of the profession of athletic training. Graduates from our programs deliver health care in a wide variety of practice sites all across the country.

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system. As an educator, practicing professional, and a health care consumer all of these are significant issues to me.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not

qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment. Wyoming communities annually search for enough qualified health care professionals to serve its needs. This change would only compound an already difficult problem.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare. In a rural state such as Wyoming this could greatly impact the health care delivery system.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.***
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent. It only serves to provide exclusivity to a limit number of providers and in that way borders on such issues as restraint of trade.

Sincerely,

William T. Lyons, MS, ATC

Clinical Assistant Professor

Division of Kinesiology and Health

University of Wyoming

CC. Senator: Mike Enzi

Representative: Barbara Cubin

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

It is vital that all physical therapy services be administered by qualified licensed therapists. Even those armed with a degree in PT have only a foundation on which to build and a license to learn. Medicare and other insurance monies should reimburse for the best quality care available with a goal to restore patient function and quality of life. The physicians wallet must not be the primary concern.